

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CHRISTOPHER M. SCALES,

Plaintiff,

V.

MARY SCOTT,

Defendant.

CASE NO. C08-5480BHS/JRC

**ORDER DENYING
APPOINTMENT OF COUNSEL**

This 42 U.S.C. § 1983 action has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates Judges' Rules MJR 1, MJR 3, and MJR 4. The matter is before the Court on plaintiff's motion for appointment of counsel (Dkt. # 24).

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(e) (1), can request counsel to represent a party, the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. Wilborn, 789 F.2d at 1331.

1 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se* (Dkt # 22).
2 This case is not in a posture where the court can determine the likelihood of success on the
3 merits. Plaintiff's Motion to Appoint Counsel (Dkt. # 24) is **DENIED**.

4 The Clerk's Office is directed to send plaintiff a copy of this order and remove Dkt. # 24
5 from the Court's calendar.
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7 DATED this 22nd day of May, 2009.

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10 J. Richard Creatura
11 United States Magistrate Judge
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